

Notifiable conditions in Victoria

Information about privacy legislation for notifiers

The Health Records Act 2001

The *Health Records Act 2001* (HRA) aims to protect the privacy of an individual's health information and how this information is managed. The HRA applies to the Victorian Government sector, Victorian Government funded services, private health services within Victoria and any other organisations within Victoria that hold health information.

The Privacy Act 1988 (Cwth.)

This federal legislation applies to large organisations in the private sector and services directly funded by the Australian Government.

How does privacy legislation fit with the *Public Health and Wellbeing Act and Regulations*?

Privacy law is subsidiary legislation. Where a privacy law is inconsistent with another law, the privacy law is 'of no force or effect.' Privacy law therefore does not affect legal obligations regulating the notification of conditions listed in the regulations, or when information is requested by the department under the *Public Health and Wellbeing Act 2008*.

What are my obligations regarding notifiable conditions and privacy?

Under the *Public Health and Wellbeing Act 2008*, doctors and laboratories are required by law to notify the Department of Health and Human Services of diagnoses of specified conditions. The *Public Health and Wellbeing Regulations 2019* stipulate the information that must be provided. This includes demographic data, clinical history, the disease or condition diagnosed, risk factors, suspected modes of transmission and clinical comments.

You are strongly recommended to inform your patient that this information is provided to the department, the reasons why it is provided and that there is a legal imperative to do so. The department has developed information sheets you can give your patient to assist with this process.

Can my patients refuse to allow the disclosure of this information to the department?

No—it is a legislative requirement that is designed to identify causes and risk factors for infectious diseases and other notifiable conditions and to protect public health and safety.

What about supplementary information collected through enhanced surveillance?

Supplementary information is considered as statistical information essential for the planning, implementation and evaluation of public health services. The data collected are predominantly risk factors and clinical histories. The information collected, including sensitive information (for example, ethnicity, sexual preferences), is regarded as core data relevant to public health practice. The *Public Health and Wellbeing Act 2008* permits the disclosure of relevant clinical and risk factor information, and information about the suspected modes of transmission.

Where can I obtain further information?

Department of Health and Human Services:

- Communicable disease related enquiries
1300 651 160
<www.health.vic.gov.au/infectious-diseases>
- Lead related enquiries
1300 761 874
<www.health.vic.gov.au/environment>
- Privacy
<www.dhhs.vic.gov.au/publications/privacy-policy>
privacy@dhhs.vic.gov.au

Office of the Health Complaints Commissioner:

<hcc.vic.gov.au>

Office of the Australian Information Commissioner:

<www.oaic.gov.au>

Office of the Victorian Information Commissioner:

<ovic.vic.gov.au>